

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 A.M. on March 22, 2007, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Nobuko Folmsbee, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

The Chairman called for final action on **HB 2073--Fee increase authority for Sedgwick and Johnson county law libraries.**

The Chairman explained there was a proposal to gut the bill and insert the provisions of **HB 2016--Board of Regents authority to transfer title of real estate to investing agents.** Kathy Damron, on behalf of the University of Kansas, was called upon to review the bill.

Kathy Damron reviewed the bill and stated that it had unanimously passed the House Committee on Education Budget and was placed on the House Consent Calendar. After two of the required three days it was pulled off the Consent Calendar and placed on the General Debate Calendar, immediately before the turnaround deadline. It was not debated before the deadline occurred and therefore was stricken. Ms. Damron indicated this is an important piece of legislation to all of the State universities.

The Chairman indicated that **HB 2073** was just a vehicle at this point.

Senator Allen moved, Senator Lynn seconded, to remove the contents of **HB 2073** and insert the contents of **HB 2016.** Motion carried.

Senator Donovan moved, Senator Goodwin seconded, to recommend **HB 2073**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 376--Driving under the influence; habitual violator; administrative hearings; motorized bikes; ignition interlock; impoundment.**

Senator Journey explained a balloon amendment proposed by the Kansas Department of Transportation which provides clarifying language approved by the Federal Highway Administration (Attachment 1).

Senator Journey moved, Senator Umbarger seconded, to adopt the proposed balloon amendment. Motion carried.

Senator Journey moved, Senator Umbarger seconded, to recommend **SB 376**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 379--Contracts; indemnification clauses and additional insured requirements in construction contracts void.**

Chairman Vratil reviewed the bill and distributed a balloon amendment addressing some of the concerns that were expressed by conferees during the hearing (Attachment 2).

Senator Journey moved, Senator Lynn seconded, to amend **SB 379** as reflected in the balloon amendment. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on March 22, 2007, in Room 123-S of the Capitol.

Senator Betts moved, Senator Goodwin seconded, to recommend **SB 379**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **HB 2359--Controlled substances, drug paraphernalia**.

Chairman Vratil reviewed the bill heard on March 14. Senator Vratil suggested a technical change on page 1, line 25, to delete the “,” and insert the word “or” before the word “primarily” and make the same change to page 2, line 14.

Senator Journey moved, Senator Goodwin seconded, to amend **HB 2359** as indicated by Senator Vratil.

Following discussion the motion was amended to change **HB 2359** on page 1, line 24, by deleting the “,” and insert the word “or” before the word “primarily” and inserting the word “or” following the word “intended” and to insert the word “and” on page 1, line 30, following the word “substance”. Motion carried.

Senator Donovan moved, Senator Lynn seconded, to amend **HB 2359**, page 2, line 14 by striking the “,” and inserting the word “or” before the word “primarily”. Motion carried.

Senator Schmidt moved, Senator Goodwin seconded, to amend **HB 2359** by inserting the contents of **SB 14** and **SB 302**. Motion carried.

Senator Journey moved, Senator Haley seconded to amend **HB 2359** on page 4 by striking subsection (f), (lines 27-30). Motion failed.

Senator Schmidt moved, Senator Donovan seconded, to amend **HB 2359** on page 4, line 29, by striking “designed for use or”. Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to recommend **HB 2359**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **HB 2062--Criminal use of explosives**.

The Chairman reviewed the bill and distributed a proposed balloon amendment adding the definition of consumer fireworks from the Code of Federal Regulations (Attachment 3).

Senator Donovan moved, Senator Schmidt seconded, to amend **HB 2062** as reflected in the balloon amendment. Motion carried.

Senator Journey moved, Senator Schmidt seconded, to restore the original penalty to a level 6 person felony. Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to amend the contents of **SB 97** into **HB 2062**. Motion carried.

Senator Donovan moved, Senator Schmidt seconded, to recommend **HB 2062**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **HB 2363--Civil procedure; repealing statutes dealing with terms of court, an outdated concept; summary judgment motion served at least 10 days before hearing** and reviewed the bill.

Senator Schmidt moved, Senator Donovan seconded, to amend the contents of **SB 74** into **HB 2363**. Motion carried.

Senator Goodwin moved, Senator Donovan seconded, to recommend **HB 2363**, as amended, favorably for passage. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on March 22, 2007, in Room 123-S of the Capitol.

The Chairman called for final action on **HB 2318--Allowing crime scene cleanup as a compensable expense for victims** and reviewed the bill.

Senator Journey moved, Senator Lynn seconded, to recommend HB 2318 favorably for passage. Motion carried.

The Chairman called for final action on **HB 2393--Municipal courts; fines, restitution, costs; collection agents; judgments enforceable in district court** and reviewed the bill.

Senator Schmidt distributed a proposed amendment which would make the bill apply only to cities with a population of 50,000 or less (Attachment 4).

Senator Goodwin moved, Senator Schmidt seconded, to adopt the proposed amendment. Motion carried.

Senator Schmidt moved, Senator Donovan seconded, to recommend HB 2393, as amended, favorably for passage. Motion carried.

The meeting adjourned at 10:30 A.M.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/22/07

NAME	REPRESENTING
Chad Giles	KTLA
Derek Hein	Hein Law Firm
Ken Gudenkauf	KDOT
Alex Kotovantz	P.I.A.
Ross Rymik	KSSM
Kyle Smith	KBT
Dan Gibb	KSAG
Dave W. H. A.	WJA
JIM CHARK	KBA
Don Schwacke	Trans Canada Pipeline
Tom Burgess	ASA - NACM
Ken Keller	Western Extralite Co, ASA, NACM
Bill Miller	AMERICAN SUBCONTRACTORS ASSOC.
Peddy M. Hearrell	Kansas Judicial Council
Willie DeCantu	American Adoption
Cal M. Oster	City of Wichita
Tim Carpentier	K-F
<i>[Signature]</i>	<i>[Signature]</i>



PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-22-07

NAME	REPRESENTING
Gandy Jaycut	CKM
J. P. SMALL	Koch Industries, Inc.
Pete Bodyk	KDOT
Marcy Bala	KOR
DAN MORIN	Ks Medical Society
Bill Curtis	Ks Assoc of School Bds
Jennifer Schwan	KACIL
Ernie Kufly	AAFP
Russ Hazlewood	Gragbill & Hazlewood LLC
Tom Kinsley	KTLA

1 shall be assessed in such manner as the court may direct.

2 (c) Any person operating in this state a motor vehicle, except a mo-
3 torcycle, which is registered in this state other than under a temporary
4 thirty-day permit shall be the holder of a driver's license which is classified
5 for the operation of such motor vehicle, and any person operating in this
6 state a motorcycle which is registered in this state shall be the holder of
7 a class M driver's license, except that any person operating in this state a
8 motorcycle which is registered under a temporary thirty-day permit shall
9 be the holder of a driver's license for any class of motor vehicles.

10 (d) No person shall drive any motorized bicycle upon a highway of
11 this state unless: (1) Such person has a valid driver's license which entitles
12 the licensee to drive a motor vehicle in any class or classes; (2) such person
13 is at least 15 years of age and has passed the written and visual exami-
14 nations required for obtaining a class C driver's license, in which case the
15 division shall issue to such person a class C license which clearly indicates
16 such license is valid only for the operation of motorized bicycles; ~~or~~ (3)
17 such person has had their driving privileges suspended, *for a violation*
18 *other than a violation of K.S.A. 8-1567 or 8-1567a, and amendments*
19 *thereto, and has made application to the division for the issuance of a*
20 *class C license for the operation of motorized bicycles, in accordance with*
21 *paragraph (2), in which case the division shall issue to such person a class*
22 *C license which clearly indicates such license is valid only for the oper-*
23 *ation of motorized bicycles; ~~and~~ (4) such person has had their driving*
24 *privileges revoked under K.S.A. 8-286, and amendments thereto, and has*
25 *made application to the division for issuance of a class C license for the*
26 *operation of motorized bicycles, in accordance with paragraph (2), in*
27 *which case the division shall issue to such person a class C license which*
28 *clearly indicates such license is valid only for the operation of motorized*
29 *bicycles.*

for a second or subsequent

for violations other than 8-1567 or 8-1567a

or
(5) such person has had their driving privileges revoked for violations of 8-1567 or 8-1567a and has served at least a one year suspension in which case the Division may issue such person a class C license which clearly indicates such license is valid only for operation of motorized bicycles.

30 (e) Violation of this section shall constitute a class B misdemeanor.
31 Sec. 2. K.S.A. 8-286 is hereby amended to read as follows: 8-286.
32 Whenever the files and records of the division shall disclose that the
33 record of convictions of any person is such that the person is an habitual
34 violator, as prescribed by K.S.A. 8-285, and amendments thereto, the
35 division promptly shall revoke the person's driving privileges for a period
36 of three years, *except as allowed under subsection (d)(4) of K.S.A. 8-235,*
37 *and amendments thereto.* and (5)

or (5)

38 Sec. 3. K.S.A. 2006 Supp. 8-287 is hereby amended to read as fol-
39 lows: 8-287. *Except as allowed under subsection (d)(4) of K.S.A. 8-235,*
40 *and amendments thereto, operation of a motor vehicle in this state while*
41 *one's driving privileges are revoked pursuant to K.S.A. 8-286 and amend-*
42 *ments thereto is a class A nonperson misdemeanor. The person found*
43 *guilty of a third or subsequent conviction of this section shall be sentenced*

1 to not less than 90 days imprisonment and fined not less than \$1,500. The
2 person convicted shall not be eligible for release on probation, suspension
3 or reduction of sentence or parole until the person has served at least 90
4 days' imprisonment. The 90 days' imprisonment mandated by this sub-
5 section may be served in a work release program only after such person
6 has served 48 consecutive hours' imprisonment provided such work re-
7 lease program requires such person to return to confinement at the end
8 of each day in the work release program. The court may place the person
9 convicted under a house arrest program pursuant to K.S.A. 21-4603b,
10 and amendments thereto, or any municipal ordinance to serve the re-
11 mainder of the minimum sentence only after such person has served 48
12 consecutive hours' imprisonment.

13 Sec. 4. K.S.A. 8-288 is hereby amended to read as follows: 8-288.
14 *Except as allowed under subsection (d)(4) of K.S.A. 8-235, and amend-* or (5)
15 *ments thereto*, no license to operate a motor vehicle in Kansas shall be
16 issued to a person for a period of three years from the date of the division's
17 order revoking such person's driving privileges pursuant to K.S.A. 8-286
18 and amendments thereto and until the person's driving privileges have
19 been restored.

20 Sec. 5. K.S.A. 8-1002 is hereby amended to read as follows: 8-1002.
21 (a) Whenever a test is requested pursuant to this act and results in either
22 a test failure or test refusal, a law enforcement officer's certification shall
23 be prepared. If the person had been driving a commercial motor vehicle,
24 as defined in K.S.A. 8-2,128, and amendments thereto, a separate certi-
25 fication pursuant to K.S.A. 8-2,145, and amendments thereto, shall be
26 prepared in addition to any certification required by this section. The
27 certification required by this section shall be signed by one or more of-
28 ficers to certify:

29 (1) With regard to a test refusal, that: (A) There existed reasonable
30 grounds to believe the person was operating or attempting to operate a
31 vehicle while under the influence of alcohol or drugs, or both, or to be-
32 lieve that the person had been driving a commercial motor vehicle, as
33 defined in K.S.A. 8-2,128, and amendments thereto, or is under 21 years
34 of age while having alcohol or other drugs in such person's system; (B)
35 the person had been placed under arrest, was in custody or had been
36 involved in a vehicle accident or collision; (C) a law enforcement officer
37 had presented the person with the oral and written notice required by
38 K.S.A. 8-1001, and amendments thereto; and (D) the person refused to
39 submit to and complete a test as requested by a law enforcement officer.

40 (2) With regard to a test failure, that: (A) There existed reasonable
41 grounds to believe the person was operating a vehicle while under the
42 influence of alcohol or drugs, or both, or to believe that the person had
43 been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128,

SENATE BILL No. 379

By Committee on Ways and Means

3-12

9 AN ACT concerning construction contracts; relating to indemnification
10 provisions and additional insured parties; amending K.S.A. 2006 Supp.
11 16-121 and repealing the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 16-121 is hereby amended to read as
15 follows: 16-121. (a) When used in this section:

16 (1) "Construction contract" means an agreement for the design, con-
17 struction, alteration, renovation, repair or maintenance of a building,
18 structure, highway, road, bridge, water line, sewer line, oil line, gas line,
19 appurtenance or other improvement to real property, including any mov-
20 ing, demolition or excavation, except that no deed, lease, easement, li-
21 cense or other instrument granting an interest in or the right to possess
22 property shall be deemed to be a construction contract even if the in-
23 strument includes the right to design, construct, alter, renovate, repair or
24 maintain improvements on such real property.

25 (2) "Damages" means personal injury damages, property damages or
26 economic loss.

27 (3) "Indemnification provision" means a covenant, promise, agree-
28 ment, *clause* or understanding in connection with, *contained in, or col-*
29 *lateral to* a construction contract that requires the promisor to hold harm-
30 less, indemnify or defend the promisee or others against liability for *loss*
31 *or damages*.

32 (4) "Indemnitee" shall include an agent, employee or independent
33 contractor who is directly responsible to the indemnitee.

34 (b) An indemnification provision in a construction contract or other
35 agreement, including, but not limited to, a right of entry, entered into in
36 connection with a construction contract, which requires the indemnitor
37 to indemnify the indemnitee for the indemnitee's negligence *or inten-*
38 *tional acts or omissions* is against public policy and is void and
39 unenforceable.

40 (c) *A provision in a construction contract which requires a party to*
41 *provide liability coverage to another party, as an additional insured, for*
42 *such other party's own negligence or intentional acts or omissions is*
43 *against public policy and is void and unenforceable.*

, except that the provisions of this subsection shall not apply to a construction contract between the owner of the property and the general contractor

HOUSE BILL No. 2062

By Representatives Goico, Brunk, Carlson, Colloton, Colyer, Dahl, Grange, Hayzlett, Horst, Huntington, Kelley, Kelsey, Kiegerl, Kinzer, Lukert, Merrick, Morrison, Jim, Myers, Phelps, Pottorff, Schroeder, Siegfried, Vickrey and Wilk

1-11

15 AN ACT concerning crimes and punishment; relating to criminal use of
16 explosives; amending K.S.A. 2006 Supp. 21-3731 and repealing the
17 existing section.

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 Section 1. K.S.A. 2006 Supp. 21-3731 is hereby amended to read as
21 follows: 21-3731. (a) Criminal use of explosives is the:

22 (1) Possession, manufacture or transportation of commercial explo-
23 sives; chemical compounds that form explosives; *a combination of chem-*
24 *icals, compounds or materials, including, but not limited to, the presence*
25 *of an acid, a base, dry ice or aluminum foil, that are placed in a container*
26 *for the purpose of generating a gas or gases to cause a mechanical failure,*
27 *rupture or bursting of the container; incendiary or explosive material,*
28 *liquid or solid; detonators; blasting caps; military explosive fuse assem-*
29 *blies; squibs; electric match or functional improvised fuse assemblies; or*
30 *any completed explosive devices commonly known as pipe bombs or mol-*
31 *otov cocktails. For purposes of this section, explosives shall not include*
32 ~~class "c" fireworks~~; legally obtained and transferred commercial explo-
33 sives by licensed individuals and ammunition and commercially available
34 loading powders and products used as ammunition; *and consumer*
35 *fireworks, unless such consumer fireworks are modified or assembled as*
36 *a device that deflagrates or explodes when used for a purpose not intended*
37 *by the manufacturer; or*

38 (2) *possession, creation or construction of a ~~hoax~~ simulated explo-*
39 *sive, destructive device, incendiary, radiological, biological or poison gas,*
40 *bomb, rocket, missile, mine, grenade, dispersal device or similar ~~hoax~~*
41 *simulated device, with intent to intimidate or cause alarm to another*
42 *person.*

43 (b) (1) Criminal use of explosives as defined in subsection (a)(1) is a

, as defined in 27 C.F.R. 555.11, in effect on the effective date of the act

1 severity level 8 6, person felony.

2 (2) Criminal use of explosives as defined in subsection (a)(1) if: (A)
3 The possession, manufacture or transportation is intended to be used to
4 commit a crime or is delivered to another with knowledge that such other
5 intends to use such substance to commit a crime; (B) a public safety
6 officer is placed at risk to defuse such explosive; or (C) the explosive is
7 introduced into a building in which there is another human being, is a
8 severity level 6 5, person felony.

9 (3) *Criminal use of explosives as defined in subsection (a)(2) is a se-*
10 *verity level 8, person felony.*

11 (c) *The provisions of subsection (a)(1) shall not prohibit law enforce-*
12 *ment officials, the United States military, public safety officials, accredited*
13 *educational institutions or licensed or registered businesses, and associ-*
14 *ated personnel, [from] engaging in legitimate public safety training, dem-*
15 *onstrations or exhibitions requiring the authorized construction or use of*
16 *such simulated devices or materials.*

17 Sec. 2. K.S.A. 2006 Supp. 21-3731 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the ~~statute book~~ **Kansas register**.

3-2

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2393

By Committee on Judiciary

2-5

10 AN ACT concerning municipal courts; relating to collection of fines, res-
11 titution and other costs

;concerning jurisdiction; amending K.S.A.
12-4104 and K.S.A. 2006 Supp. 38-2302 and
repealing the existing sections

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) Cities are authorized to enter into contracts for collec-
15 tion services for debts owed to municipal courts or restitution owed under
16 an order of restitution. On and after July 1, 2007, the cost of collection
17 shall be paid by the defendant as an additional court cost in all cases
18 where the defendant fails to pay any amount ordered by the court and
19 the court utilizes the services of a contracting agent pursuant to this sec-
20 tion. The cost of collection shall be deemed an administrative fee to pay
21 the actual costs of collection made necessary by the defendant's failure
22 to pay court debt and restitution.

23 (b) The following terms shall mean:

24 (1) "Beneficiary under an order of restitution" means the victim or
25 victims of a crime to whom a municipal court has ordered restitution be
26 paid;

27 (2) "contracting agent" means a person, firm, agency or other entity
28 who contracts hereunder to provide collection services;

29 (3) "cost of collection" means the fee specified in contracts hereunder
30 to be paid to or retained by a contracting agent for collection services
31 **and shall not exceed 33% of the amount collected. The cost of**
32 **collection shall be paid from the amount collected, but shall not**
33 **be deducted from the debts owed to municipal courts or restitu-**
34 **tion.** Cost of collection also includes any filing fee required under K.S.A.
35 60-4303, and amendments thereto; and

36 (4) "debts owed to municipal courts" means any assessment of court
37 costs, fines, fees, moneys expended by the city in providing counsel and
38 other defense services to indigent defendants or other charges which a
39 municipal court judgment has ordered to be paid to the court, and which
40 remain unpaid in whole or in part, and includes any interest or penalties
41 on such unpaid amounts as provided for in the judgment or by law.
42 "Debts owed to municipal courts" also includes the cost of collection
43 when collection services of a contracting agent hereunder are utilized.

4-2

1 of any district court of this state. Such copy must be filed by an attorney
 2 licensed to practice law in the state of Kansas. The clerk of the district
 3 court shall treat the municipal judgment so filed in the same manner as
 4 a judgment of the district court of this state. A judgment filed as provided
 5 by this section has the same effect and is subject to the same procedures,
 6 defenses and proceedings as a judgment of a district court of this state
 7 and may be enforced or satisfied in like manner.

8 —At the time of the filing of the municipal judgment, the clerk of the
 9 municipal court shall make and file with the clerk of the district court an
 10 affidavit setting forth the name and last known post-office address of the
 11 judgment debtor who was assessed a debt owed to the municipal court.

12 —Upon the filing of the municipal judgment and the affidavit, the clerk
 13 of the municipal court or the contracting agent on behalf of that court
 14 promptly shall mail notice of the filing of the municipal judgment to the
 15 judgment debtor at the address given and shall file a certificate of the
 16 mailing with the district court. The notice shall include the name and
 17 post-office address of the city's contracting agent and the attorney pros-
 18 ecuting the judgment collection for the city. In addition, a judgment cred-
 19 itor owed restitution under the municipal judgment may mail a notice of
 20 the filing of the judgment to the judgment debtor and may file proof of
 21 mailing with the clerk of the district court. Lack of mailing notice of filing
 22 by the clerk of the municipal court shall not affect the enforcement pro-
 23 ceedings if proof of mailing by the judgment creditor has been filed.

24 —(j) If the judgment debtor shows the district court that an appeal from
 25 the municipal judgment is pending or will be taken, or that a stay of
 26 execution has been granted, the court shall stay enforcement of the mu-
 27 nicipal judgment until the appeal is concluded, the time for appeal expires,
 28 or the stay of execution expires or is vacated, upon proof that the judgment
 29 debtor has furnished the security for the satisfaction of the judgment re-
 30 quired by the city in which it was rendered.

31 —The court shall stay enforcement of the municipal judgment for an ap-
 32 propriate period, upon a finding that any ground exists upon which en-
 33 forcement of a judgment of any district court of this state would be stayed
 34 and upon requiring the same security for satisfaction of the judgment
 35 which is required subject to the provisions of subsection (d) of K.S.A. 60-
 36 2103, and amendments thereto.

37 —(k) The payment of court costs for the filing of municipal court judg-
 38 ments shall be governed by K.S.A. 60-2001 and 60-2005, and amendments
 39 thereto.

40 Sec. 2. This act shall take effect and be in force from and after its
 41 publication in the statute book.

Sec. 2., Sec. 3, and Sec. 4 (see attached)

And by renumbering the remaining section
 accordingly

Sec. 2. K.S.A. 12-4104 is hereby amended to read as follows:
12-4104. (a) The municipal court of each city shall have jurisdiction to hear and determine cases involving:

(1) Violations of the ordinances of the city; and
(2) in cities with a population of 50,000 or less, cases involving juveniles who are 10 or more years of age but less than 18 years of age who have violated a city ordinance that proscribes an act that is not prohibited by state law.

(b) Search warrants shall not issue out of a municipal court.

Sec. 3. K.S.A. 2006 Supp. 38-2302 is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) "Commissioner" means the commissioner of juvenile justice.

(b) "Conditional release" means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 2006 Supp. 38-2369, and amendments thereto, under conditions established by the commissioner.

(c) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 2006 Supp. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2006 Supp. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

(d) "Educational institution" means all schools at the

elementary and secondary levels.

(e) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A. 72-89b03, and amendments thereto.

(f) "Institution" means the following institutions: the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, the Topeka juvenile correctional facility and the Kansas juvenile correctional complex.

(g) "Investigator" means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.

(h) "Jail" means: (1) An adult jail or lockup; or
(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct

care staff such as recreational, educational and counseling.

(i) "Juvenile" means a person to whom one or more of the following applies, the person: (1) Is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.

(j) "Juvenile correctional facility" means a facility operated by the commissioner for the commitment of juvenile offenders.

(k) "Juvenile corrections officer" means a certified employee of the juvenile justice authority working at a juvenile correctional facility assigned by the commissioner with responsibility for maintaining custody, security and control of juveniles in the custody of the commissioner at a juvenile correctional facility.

(l) "Juvenile detention facility" means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

(m) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(n) "Juvenile offender" means a person who commits an offense while 10 or more years of age but less than 18 years of

age which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto, or who violates the provisions of K.S.A. 21-4204a or 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but does not include: (1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(3) a person under 18 years of age who previously has been:

(A) Convicted as an adult under the Kansas criminal code;

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 2006 Supp. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 2006 Supp. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction;

(4) in cities with a population of 50,000 or less, a person under 18 years of age who has violated a city ordinance that proscribes an act that is not prohibited by state law.

(o) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law

with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(p) "Parent" when used in relation to a juvenile, includes a guardian and every person who is, by law, liable to maintain, care for or support the juvenile.

(q) "Risk assessment tool" means an instrument administered to juveniles which delivers a score, or group of scores, describing, but not limited to describing, the juvenile's potential risk to the community.

(r) "Sanctions house" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control the behavior of its residents. Upon an order from the court, a licensed juvenile detention facility may serve as a sanctions house.

(s) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(t) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments

thereto.

Sec. 4. K.S.A. 12-4104 and K.S.A. 2006 Supp. 38-2302 are hereby repealed.